

Attachment Enclosed to Civil Complaint
(Picture - Exhibits Enclosed)

In the United States District Court

For the Southern District of West Virginia
Beckley (State) Division

Name: James Eberhardt)

Prison ID #: 35865-083)

Name: _____)

Prison ID #: _____)

Name: _____)

Prison ID #: _____)

☐ Check here if there are additional
 Plaintiffs—use separate sheet to
 list each person. DO NOT USE ET AL.)

vs.)

Name: Dr. Barry A. Levin)

Name: _____)

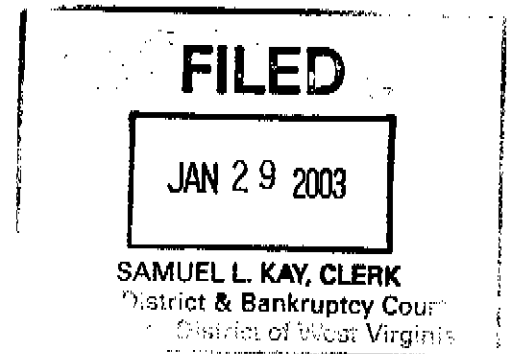
Name: Raleigh General Hospital)

Name: _____)

☒ Check here if there are additional
 Defendants—use separate sheet to
 list each person. DO NOT USE ET AL.)

Civil Action #: 5:03-0072

(To be assigned by the Clerk's
 Office. Do not write in this blank.)



Complaint for the Violation of Civil Rights
Under 42 U.S.C. § 1983

I. Previous Lawsuits

A. Have you or any of the other plaintiffs listed above filed any other lawsuits in the United States District Courts and/or any state courts?

☐ Yes

☒ No

B. If you answered YES to Question A, list the following information:

☐ Check here if more than one lawsuit has been filed and list them on additional sheets

1. Parties to previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. In what Court did you file the previous lawsuit?

(If Federal Court, name the District; if State Court, name the county.)

3. Case Number of the previous lawsuit: _____

4. Name of judge to whom the case was assigned: _____

5. Date previous lawsuit was filed: ____/____/____ (List at least the year.

6. What was the disposition or result of the previous lawsuit? (for example, was it dismissed, appealed, or still pending)

7. When was previous lawsuit decided: ____/____/____ (List at least the year.

8. Did the previous lawsuit involve the same facts or circumstances that you are now alleging in the lawsuit you are now submitting?

☐ Yes

☐ No

II. Place of Plaintiff(s)'s current confinement:

- A. Name of prison or jail in which you are currently incarcerated:

federal Correctional institution, Beckley, W.V.

- B. Are the facts of your lawsuit related to your confinement in your present prison or jail?

☐ Yes

☒ No

- C. If you answered NO to question B, list the name and address of the jail or prison to which the facts of your lawsuit relate:

F.C.I. Beckley, P.O. Box 350, Beaver, W.V. 25813

D. Did you present these facts to the prison authorities through the prisoner grievance procedure?

☒ Yes

☐ No

E. If you answered Yes to question D:

1. What steps did you take: I verbally requested a Medical second opinion, regarding the present condition of my right hand.
2. What was result: The institution evaded the outside Medical second opinion;

F. If you answered No to question D, explain why not: _____

III. Parties to this Lawsuit

A. Plaintiff(s) bring this lawsuit:

1. Name of Plaintiff: James Eberhardt
Prison ID #: 35865-084
Address, include name of institution: F.C.I. Beckley,
P.O. Box 350, Beaver, W.V. 25813
2. Name of Plaintiff: _____
Prison ID #: _____
Address, include name of institution: _____
3. Name of Plaintiff: _____
Prison ID #: _____
Address, include name of institution: _____

☐ Check here if there are additional plaintiffs and list them on additional sheet of paper.

- B. Defendants against whom you are filing this lawsuit:
For each defendant, check whether you are naming the defendant in his or her individual and/or official capacity.

1. Name of Defendant: Dr. Barry A. Levin
Place of Employment: Raleigh General Hospital
Address of Defendant: 1710 Harper Road
Beckley, West Virginia (25801)
Named in an official capacity? ☒ Yes ☐ No
Named in an individual capacity? ☐ Yes ☐ No
2. Name of Defendant: Raleigh General Hospital
Place of Employment: :Self:
Address of Defendant: 1710 Harper Road
Beckley, West Virginia (25801)
Named in an official capacity? ☒ Yes ☐ No
Named in an individual capacity? ☐ Yes ☐ No
3. Name of Defendant: _____
Place of Employment: _____
Address of Defendant: _____

Named in an official capacity? ☐ Yes ☐ No
Named in an individual capacity? ☐ Yes ☐ No

- ☐ Check here if there are more than 3 defendants. You must list each and every defendant. If you do not list the name of a defendant, he or she will not be included in the lawsuit. If you do not list the place of employment and address the clerk will not be able to serve that defendant. Use addition sheets of paper to list more than 3 defendants.

IV. Statement of your claim

State as briefly as possible all the facts of your case. Recite the dates when any incidents or events occurred, and the places where they took place. Describe how each defendant is involved. Also include the names of other persons involved and the dates and places of their involvement.

(Please See Enclosed Attachment)

If you set forth more than one claim, number each one, and use a separate paragraph for each one.

On approximately March 2nd, 2000, the Plaintiff was operating a Saw Machine, at F.C.T. Beckley's, facilities Management, Unit's Carpentry Shop, the Plaintiff's Work Supervisor, at that time, was a Mr. Moore, the Plaintiff do not know Mr. Moore's first name, nevertheless, the Plaintiff on the above Date, was operating a machine that should have been operated by two people when the Plaintiff was cutting a long piece of wood, because the wood had jammed in the machine, which in turn caused severe damage to the Plaintiff's Right Hand; (Please See Enclosed Exhibit - A) The institution agreed to give the Plaintiff Workman's Compensation, of only fifteen (15) dollars per month, and verbally stated to the Plaintiff, that (45) days prior to his Release, he could file for disability payments; Under federal section - 1983, it is questionable, whether federal Bureau of Prisons employees can be held accountable, therefore, the Plaintiff is (Page 5 of 6) Bringing Action against the Doctor and the Hospital, involved

V. Relief requested: List what you want the court to do; list what relief you seek against each defendant:

- A. The Plaintiff is Entitled to significant,
B. Compensation, from the Doctor and Hospital
C. _____
D. The Plaintiff is Seeking one million Dollars,
E. each from the Doctor, and Hospital, Listed
in this Complaint

I (we) hereby certify under penalty of perjury that the above complaint is true to the best of my (our) information, knowledge and belief.

Signed this 22 day of January, 2003.

Signature: Mr. James Eberhardt

Prison ID #: 35865-083

Address: F.C.I. Buckley, P.O. Box
350, Beaver, W.V. (25813)

Signature: _____

Prison ID #: _____

Address: _____

Signature: _____

Prison ID #: _____

Address: _____

☒ Check here if additional signatures are included on an additional sheet of paper.

All plaintiffs must sign complaint.

Mr. James Eberhardt;

Please see Supplement Attachment
Specifying Damages

(Supplement Attachment to the Complaint)

(Page-I) (1-22-03)

: United States District Court for The Southern
District of West Virginia :

James Eberhardt - Plaintiff

v.

Dr. Barry A. Levin, and Raleigh General Hospital

: title - 42, U. S. C. 1983:

: The Plaintiff Hereby Respectfully Brings this Civil Complaint with Documented Pictures and Exhibits included, against a Dr. Barry A. Levin, and Raleigh General Hospital, Seeking Damages from Each, in the Amount of one million Dollars;

(Cause of Action, and Thrust of Complaint)

(1.) The Plaintiff feels constant physical pain, in his right hand, as a direct result of the incompetent service, that Dr. Levin performed on the Plaintiff, specifically, Bone fragments left in his right middle index finger, (Please see enclosed Picture Exhibit-B)

(2.) The Plaintiff have completely lost the use of his right hand, as a direct result of what Dr. Levin have done, and the Plaintiff is Right Handed;

N # 1

Cont. Attachment (Page-2)

(1-22-03)

(3.) The Plaintiff suffers Constant Mental Duress, and Depression, from the constant Stares, and ridicule, that he receives daily from other prisoners;

: Specific Charges outlined against the Hospital in question (Raleigh General Hospital) is the fact, that, this Hospital allowed Dr. Levin to perform the incompetent services, that caused the Plaintiff's loss of the use of his entire right hand, and the fact that Hospital Supervisors failed to Thereby ensure the Supervision, and translate to Dr. Levin, concerning, first, the Bone fragments left in the Plaintiff's right middle index finger, and the failure to inquire as to why skin wasn't Grafted, and the Plaintiff's finger veins was never properly re-attached;

: finally, Dr. Levin himself, is Directly responsible, for the permanent non-use of the Plaintiff's Right Hand, because the Doctor failed to remove the Bone fragments During the Surgery, and failed to perform any skin graphs, and failed to properly re-align the finger veins;

Cont. Attachment (Page-3) (1-22-03)

The Plaintiff Respectfully Request, that this Honorable United States Court, examine the Documents, and specifically the Pictures Enclosed, to Thereby ascertain from Exhibit - A, (the beginning of the incident through Exhibit - D, (after the so-called Healing to verify the severe disfigurement of the Plaintiff's fingers;

Additionally, the Plaintiff feels that he might still be able to get a second opinion, from a Medical Specialist, outside of the reach of the Bureau of Prisons, Therefore the Plaintiff is seeking a Million Dollars each, from the Defendants, to Thereby not only Compensate the Plaintiff, but to offset any future Medical expenses, that might arise in the future;

: The Plaintiff Reserves the Right to Bring future Civil Litigation against the Bureau of Prisons, Under another Statute for its involvement in the incident:

Respectfully Submitted,

Mr. James Eberhardt

Exhibit-C



Exhibit-D



4

HCA10040125/8

RHYTHM STRIP RECORD

Eberhardt, James
MR # 330812
3/7/01



INTERPRETATION:

HR. PR.

Eberhardt, James
MR # 330812
3/7/01



Eberhardt, James

423

Eberhardt, James
MR # 330812

3/7/01

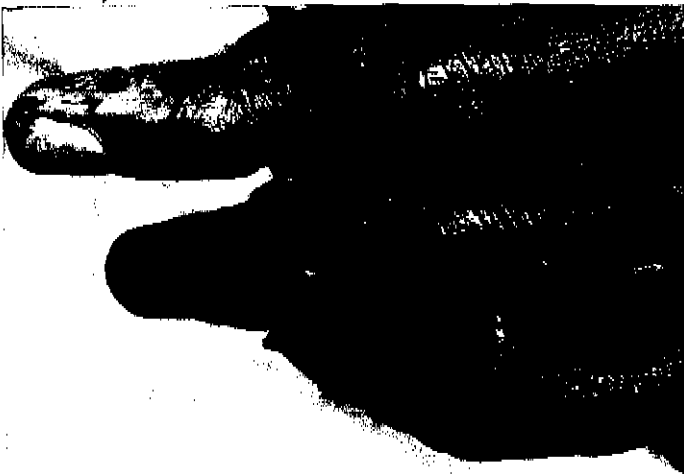


Exhibit-A

RALEIGH GENERAL HOSPITAL
1710 Harper Road
Beckley, West Virginia 25801

(Exhibit-E)

=====

OPERATIVE REPORT

PATIENT NAME: EBERHARDT, JAMES R
MEDICAL RECORD #: F000330812
ROOM NUMBER: F.423-A

=====

DATE OF OPERATION: 03/21/01

SURGEON: Levin, Barry A

ASSISTANT:

ANESTHETIST:

ANESTHETIC:

PREOPERATIVE DIAGNOSIS: Crush injury with reimplantation of
middle and ring finger.

POSTOPERATIVE DIAGNOSIS: Crush injury with reimplantation of middle
and ring finger.

OPERATION: Debridement and removal of sutures.

INDICATIONS FOR SURGERY: This is a 25 year old male who sustained a
significant injury to his hand approximately two weeks ago. The
patient had a crush injury to his hand. We proceeded to reimplant his
third and fourth finger and repair the digit of his index finger. At
this time he is two weeks post surgery. We are going to take a look
at his finger and hopefully debride some of the necrotic tissue and
remove the sutures.

OPERATIVE PROCEDURE: The hand was well irrigated, and all the clotted
blood was removed. We then proceeded to give the patient general
anesthesia and remove the sutures. We removed some of the necrotic
skin. The patient had good circulation in the fingertips of his
fingers. There were some areas of necrosis where the skin was
debrided and cleaned. Once this was done a soft dressing was applied.

(Exhibit-E)

PATIENT NAME: EBERHARDT, JAMES R
MEDICAL RECORD #: F000330812

The patient tolerated the procedure well and went back to the recovery area in satisfactory condition.



Barry A Levin, M.D.

D: 03/24/01 1202
T: 03/25/01 1000
DDT
(Job #8612)
PMT, Inc.

RALEIGH GENERAL HOSPITAL
1710 Harper Road
Beckley, West Virginia 25801

(Exhibit - F)

=====

OPERATIVE REPORT

PATIENT NAME: EBERHARDT, JAMES R
MEDICAL RECORD #: F000330812
ROOM NUMBER: F.423-A

=====

DATE OF OPERATION: 03/07/01

SURGEON: Levin, Barry A

ASSISTANT:

ANESTHETIST:

ANESTHETIC:

PREOPERATIVE DIAGNOSIS: Lacerations and crush injuries to right hand, index, middle and ring fingers.

POSTOPERATIVE DIAGNOSIS:

OPERATION: Debridement of significant injury to right hand.

INDICATIONS AND FINDINGS: This is a 25 year old male who was using a table saw and sustained a severe injury to his hand. Patient injured his index, middle and ring finger. He was brought to the ER where his middle and index fingers were not completely amputated with a small skin bridge holding the fingers together. There is quite a bit of bone loss to the middle phalanx to both of these fingers. There was complete disruption of flexor tendon as well as the digital nerves. It was difficult to determine exactly the extent of the damage to these fingers but seemed to be almost a complete amputation. However there appeared to be enough circulation getting through the skin or through the vessels that are intact that it is possible the fingers can survive. The index finger has a similar injury in that bone is destroyed and the tendon is partially torn but is not as severe as the middle or ring finger. We are going to take the patient to the OR and try to salvage the hand and the fingers as best possible.

OPERATIVE PROCEDURE: The following procedure was done. We could not give a thorough prep of the hand because of the trauma of the prep might disrupt the circulation to the middle and ring fingers. Therefore Betadine was poured over the hand without scrubbing the hand. We did scrub the hand from the wrist up to the elbow. A tourniquet was applied. I proceeded to explore the ring and middle finger and it was obvious that the only thing that could be attached was the skin and possibly neurovascular bundle on the ulnar side of these two fingers. The bone was completely destroyed and comminuted at the middle phalanx from the DIP joint to the PIP joint. The

PATIENT NAME: EBERHARDT, JAMES R
MEDICAL RECORD #: F000330812

following procedure was done: We first attempted to stabilize the ring finger. This was done by putting a suture through the skin. This help to stabilize it. We then proceeded to irrigate the finger out, cleaning as much debris as possible. I attempted to line the phalanx, pieces of bone together as best possible. It was felt then to use an old 45 K wire in a shishkebab fashion and try to hold the bone together. We were able to do this and this gave more stability to the finger. No attempt was made to repair the flexor or extensor tendon at this area. We then proceeded to debride any loose tissue and then proceeded to tack the skin together with 3-0 nylon. The finger appeared to be lined up satisfactorily and we were able to get satisfactory stability with the sutures together. The same procedure was done for the middle finger basically. Once again the patient has extensive damage to the flexor tendon and extensor tendon. It was hard to determine whether there was complete disruption. However there appeared to be possibly a neurovascular bundle intact on the ulnar side. I proceeded once again to try and mold comminuted bone together and then use K wire to hold the pieces of bone together. We were able once again to get good alignment and stability of the finger and we also proceeded to loosely debride some of the necrotic skin and then close the skin using 3-0 nylon. The index finger was similar but the flexor tendon appeared to be intact. I proceeded to once again put a K wire across the bone to hold the middle finger and hold the fragmented bone together and then close the skin. The procedure was done using tourniquet and then releasing the tourniquet at various times. The patient appeared to have good circulation to the fingers and satisfactory circulation to the tips of the fingers once were done. We were able to get satisfactory skin coverage and stabilization. Once again we were not able to repair the tendon to the fingers or any of the digital nerves. At this time, it was difficult to determine how much damage was done to the tendons or the nerves. However it appeared to be quite significant. The purpose of this procedure was probably just to stabilize the fingers and try to save the fingers as best possible. Once this was done, the skin was well irrigated out and a soft dressing was applied to stabilize the hand. A volar splint was applied after applying the bulky dressing. The patient tolerated the procedure well and went back to the recovery room in satisfactory condition.



Barry A Levin, M.D.

D: 03/08/01 2339
T: 03/09/01 0732
TAC
PMT, INC., JOB #: 3282